IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

OP.No. 10097 of 1997(B)

PETITIONERS:

1. **O.M.VARGHESE, PRINCIPAL, ST.MARY'S RESIDENTIAL SCHOOL, PATHANAPURAM.**
2. **P.T.ABRAHAM, MULAMOOTTIL, PALIAKARA, THIRUVELLA, MANAGER, ST.MARY'S RESIDENTIAL SCHOOL, PATHANAPURAM.**

BY ADV. SRI.K.K.JOHN

RESPONDENTS:

1. **THE ASSISTANT LABOUR OFFICER, PUNALUR.**
2. **AUTHORITY UNDER THE MINIMUM WAGES ACT 1948 - COMMISSIONER FOR WORKMEN'S COMPENSATION AND DEPUTY LABOUR COMMISSIONER, KIOLLAM.**
3. **G.PONNAMMA, C/O.THANKAMONY PRASANNAN, NEDIYAVILA VEEDU, PLACHERRY P.O., PUNALUR.**

***ADDL.R6 TO R12 ARE IMPLEADED:**

R6. N.SADANANDAN, AGED 63, S/O.K.NANU, MADHU VILASOM, EDATHVA PANCHAYATH, EDAMON VILLAGE, PATHANAPURAM TALUK.

....2/-

R7. G.RATNAMMA, AGED 60,
PUSHKARA VILASOM,
LAKSHAM VEEDU, EDAMON VILLAGE.

R8. N.RAJAN, AGED 53,
SABU VILASOM, EDATHVA PANCHAYAT,
EDAMON – 34, EDAMON P.O.,
PATHANAPURAM TALUK.

R9. G.DEVAKI, AGED 47,
W/O.GANDHARI,
HOUSE NO.306, GANAPATHIPURAM,
SRILANKA PALAYAM, RAJAPALAYAM,
TAMIL NADU.

R10. N.BABU RAJAN, AGED 42,
S/O.K.NANU,
GRACE VILLA, KALAVOOR P.O.,
PUNALUR.

R11. N.THULASEEDHARAN, AGED 40,
S/O.K.NANU, SARATH BHAVAN,
EDAMON P.O., EDAMON – 34,
PATHANAPURAM TALUK.

R12. THANKAMONY, AGED 36,
S/O.K.NANU,
NEDUYAVILA VEEDU, PLATCHERY P.O.,
PUNALUR, PATHANAPURAM TALUK.

(*ADDL.R6 TO R12 ARE IMPLEADED AS PER ORDER DTD. 25/05/2007
IN C.M.P.NO.23527/2002)

BY ADV. SRI.PHILIP ANTONY CHACKO
SRI.REJI MATHEW

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 25/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO.10097/1997 B

ORDER ON C.M.P.NO,.17737/1997 IN O.P.NO.10097/1997 B

DISMISSED

25/05/2007 **SD/- S. SIRI JAGAN, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE ORDER OF THE 1ST RESPONDENT DTD. 20/01/1996.**

EXT.P2: **COPY OF THE SHOW CAUSE NOTICE DTD. 26/02/1996 BY THE 1ST RESPONDENT.**

EXT.P3: **COPY OF THE EXPLANATION OFFERED BY THE PETITIONERS ON 11/03/1996.**

EXT.P4: **COPY OF THE NOTICE DTD. 13/06/1996 OF THE 1ST RESPONDENT.**

EXT.P5: **COPY OF THE LETTER DTD. 15/06/1996 BY THE 1ST RESPONDENT.**

EXT.P6: **COPY OF THE NOTICE DTD. 26/06/1996 FROM THE 2ND RESPONDENT.**

EXT.P6(A): **COPY OF THE PETITION FILED BY THE 3RD RESPONDENT.**

EXT.P7: **COPY OF THE OBJECTION OF THE PETITIONER FILED ON 21/10/1996.**

EXT.P8: **COPY OF THE ORDER DTD. NIL POSTED ON 10/04/1997 AND SERVED ON THE PETITIONERS ADVOCATE ON 12/04/1997.**

/TRUE COPY/

KSS

O.P.NO.10097/1997 B

S.SIRI JAGAN, J.

OP.No.10097/1997

Dated this the 25th day of May, 2007

JUDGMENT

Petitioners are the Principal and Manager of St.Mary's Residential School, Pathanapuram. They are challenging Ext.P4 notice of the Assistant Labour Officer, Punalur and Ext.P8 order of the Authority under the Minimum Wages Act (Commissioner for Workmen's Compensation and Deputy Labour Commissioner, Kollam). Ext.P4 is the notice by which the petitioners have been directed to comply with the provisions of the Kerala Shops and Commercial Establishments Act and Minimum Wages Act in respect of the hostels attached to the petitioners' residential school. Ext.P8 is the preliminary order passed by the Authority under the Minimum Wages Act rejecting the preliminary objection raised by the petitioners to the effect that the Kerala Shops and Commercial Establishments Act and consequently the Minimum Wages Act are not applicable to the hostels attached to residential schools. Petitioners rely on the decision of the Corporate Manager vs. Thressia (1996(2) KLT 668) in support of the contention.

2. I have heard the learned counsel for the petitioners, learned Government Pleader and the learned counsel for the third respondent.

The only issue to be considered in this writ petition is whether the hostels attached to the residential schools is a shop or a commercial establishment under the Shops and Commercial Establishments Act. I find that under sub section 2(c) of section 3 of the Kerala Shops and Commercial Establishments Act, hostels attached to schools or colleges and establishments maintained in boarding schools in connection with the boarding and lodging of pupils and resident masters have been exempted from the provisions of section 10 of the Act. That would impliedly mean that the other provisions of the Act would apply to the such establishments. In fact Thressia's decision has been reversed by the Division Bench in appeal in Thressia vs. Corporate Manager (2005(1) KLT 109). As such I do not find any merit in the contention of the petitioners that the provisions of the Kerala Shops and Commercial Establishments Act and consequently the provisions of the Minimum Wages Act are not applicable to the hostels attached to the residential shools of the petitioners. Therefore, I do not find any merit in the writ petition. Accordingly, the same is dismissed.

S.SIRI JAGAN, JUDGE.

pmn/

S.SIRI JAGAN, J.

OP.NO.10097/1997
JUDGMENT

25TH MAY, 2007.